

**Intellectual Property Constituency
Cairo Open Meeting, Tuesday 4 November 2008
Minutes of IPC Meeting**

Attendees:

NAME	COMPANY/ORGANIZATION
Abimbola Olayimka	Nigeria Internet Registration Association
Jilyul Yoo	NIDA (South Korea)
Yassin Elshazly	Lyon University, France
Rasha Hameed	Iraqi Ministry of Communication (fellowship)
Mukube Peter	National Agency for ICT, Cameroon
Jonathan Robinson	NetNames
Nick Wood	Com Laude
Jonathan Cohen	FICPI/Shapiro, Cohen
Nathalie Dreyfus	Dreyfus Associates
Backes Martin	Saarland University
Charles Shaban	AGIP
Dr Ghasi Alodat	TAG Legal
Nagy Elbanna	NTRA/Egypt
Mohammed Thawabeh	Independent
David Taylor	Lovells
Stacey King	Richemont
Jiri Plachy	Expert4Me a.s.
Zbynek Loebel	CAC
Kay Higgins	Mesh Digital Ltd
Jim Prendergast	Galway Strategy Group
Eberhard Blocher	EAHP.DE
Destenave Sylvie	Ordipat
Johannes Lenz-Hawliczek	Dot Berlin
Matt Collins	Attorney
Maddasar Azim	Safenames Ltd

Kim von Arx	Cognition LLP
Paul McGrady	Greenberg Traurig
John Rodriguez	USPTO
Ryuji Koza	Brights Consulting
Claudio Digangi	INTA (IPC Vice President)
Mickey Beyer-Clausen	Pervasive Media
Casper Thomsen	Thomsen Trampedach
Dan Trampedach	Thomsen Trampedach
Teresa Sobreviela	Melbourne IT/INWW
Maria Eguiran	Melbourne IT/INWW
Augert Matthieu	Mailclub
Neil Dundas	COZA
Yetunde Johnson	NIRA
Matt Harper	Global Digital LLC
Ute Decker	MicroSoft
Eun-joo Min	WIPO
Steve Metalitz	COA (IPC President)

IPC Orientation

Steve Metalitz, President of the IPC, described the purpose of the IPC and how it fits into the ICANN structure. He also welcomed new attendees.

GNSO Restructuring

Steve Metalitz reported that at the end of 2007, the “Board Governance Working Group on GNSO Improvements” proposed a restructuring of the GNSO that would have seen the votes and influence of the private sector reduced. He explained how the Business, ISP and Intellectual Property Constituencies produced a compromise proposal negotiated with the Registries and Registrars and Non-Commercial Users featuring:

- A Contracted Parties House with three representatives each from the Registries and Registrars who are literally under contract with ICANN; and
- a Users House, itself sub-divided between:

- a Commercial Users Group of 6 representatives (e.g. featuring the former ISP Constituency, the Business Constituency and the Intellectual Property Constituency); and
- a Non-commercial Users Group of 6 representatives.

He explained that the ICANN Board had accepted this structure and asked the GNSO to implement it by June 2009. He pointed out that there are many issues yet to be settled such as the need to draw up a Stakeholder Charter for the Commercial Users that features:

- How the three Constituencies that will merge in to the Commercial Users Group (namely the ISP Constituency, the Business Constituency and the Intellectual Property Constituency) will achieve this
- The role of the Chair of the Commercial Users group and how this person is to be appointed
- How many Vice-Chairs there should be
- How the two ICANN Board places that the GNSO provides should be filled
- How individual users are to be represented in the Non-Commercial Users Group and Commercial Users and to have input to policy development.

He reported that as part of the process the IPC must certify to the Board that its membership meets the constitutional requirements of a constituent part of the reformed GNSO.

Finally he thanked J Scott Evans and other members of the IPC who are on the Working Group focussed on the future of the IPC in the restructuring process. This team includes Claudio di Gangi, Caroline Chicoine, Jonathan Cohen, Jane Mutimear, Kristina Rosette, as well as J. Scott Evans.

Ute Decker raised the issue of geographical diversity which may be compromised within the Commercial Users group as its representation within the GNSO changes.

Jonathan Cohen urged both new members to the IPC and existing members to participate fully in the new group. He is concerned that reaching an agreement on policy issues with the new Non Commercial Users Group could be difficult.

New gTLD Process

Steve Metalitz reported on the New gTLD initiative and praised the quality of the Draft Applicant Guidebook produced by the ICANN team. He also reported that despite earlier concerns that ICANN did not appear very concerned to protect IP during the process, the Guidebook states that the Initial Evaluation process will include an assessment of the Rights Protection Mechanisms (RPM) planned by an applicant. Specifically, there is a proposed question which requires all applicants to “Describe how their proposal will create policies and

practices that minimize abusive registrations and other activities that affect the legal rights of others”.

He reported that a team from the IPC had been formed to draft comments on the Draft Applicant Guidebook which must be submitted by 8 December 2008. This team consists of: Claudio diGangi, Nick Wood, Mark Partridge, David Einhorn, Ariel Manoff, Vicky Sheckler, Steve Metalitz, and one or more AIPLA representatives.

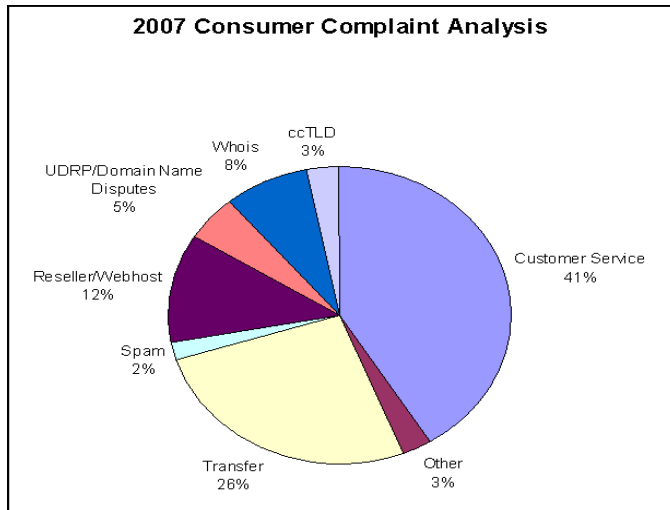
The meeting discussed whether the IPC might co-operate with ICANN and co-ordinate a meeting during the next ICANN Open Meeting in March to be held in Mexico City to assist potential applicants to understand the importance and variety of rights Protection Mechanisms, building on the success of “The Perfect Sunrise?” session held at the June 2008 Paris Meeting. It was agreed that Nick Wood and Paul McGrady would talk with ICANN about this to see if ICANN is prepared to allocate a slot on the agenda. If not, Kristina Rosette suggested that a webinar would be a good alternative.

Steve Metalitz asked the meeting if it should take further the idea raised by Paul Twomey, CEO of ICANN, during his opening presentation that a centralised database of domain names matched to trade marks would assist trade mark owners in coping with the many Sunrise-type schemes that will be a consequence of the new gTLD process. There was a broad discussion of the value of a service that assisted rights owners in either blocking key terms or providing details of rights directly to registry operators to make application cost-effective.

A small team of volunteers to consider this idea was formed consisting of David Taylor, Kristina Rosette, Natalie Dreyfuss, Paul McGrady and Matt Harper (pending membership applications).

ICANN Compliance

Stacy Burnette, Director of Contract Compliance and Khalil Rasheed, Compliance Audit Manager, gave the meeting an update on the work of the ICANN Compliance team, including the analysis of Consumer Complaints during 2007, as set out below:



Stacy reported on a number of current Compliance Reviews including Breach Notices sent to Joker and Beijing Innovative Linkage Technology, dba DNS.COM.CN. These notices confirmed that if the recipients do not remedy the Breach within 15 days, their Accreditation will be terminated. In addition, the accreditation of EstDomains was terminated due to the undisclosed criminal conviction of its director.

Stacy Burnette described the Privacy and Proxy Services Study that the Compliance Team is planning to run. This will involve a survey across Registrars to determine how many domains are shielded by such services. Stacy commented that the Registrar Constituency had not welcomed the study and had reminded her that under the RAA there is no requirement for them to provide this information to ICANN. Input on the survey will be solicited from IPC as well as from registrars. Kristina Rosette pointed out that although the majority of registrants that infringed the rights of her clients used privacy services, so did a number of her clients when they were protecting a brand name before its public launch.

Khalil Rasheed reminded the meeting that the “UDRP Best Practices Advisory Note” is open for Public Comment until 30 November.

He then summarised a Whois Data Accuracy Study that the Compliance Team is to initiate. This features a survey across the five largest gTLDs (.com, .net, .org, .biz and .info) to be undertaken by the National Opinion Research Centre of the University of Chicago to determine if Whois data is accurate. The Researchers are currently designing a methodology that they will operate across a global sample.

There was a general discussion on this study. Paul McGrady wondered how the study would treat domains that used a Privacy Service and Khalil Rasheed replied that they would most likely not be characterized as inaccurate, which was an answer that many in the meeting did not agree with. Others asked whether the research would simply determine that an address can be

matched to a registrant or whether it would dig deeper to validate whether the named registrant is the owner of the domain.

Steve Metalitz asked what the time scale would be for this project. Khalil Rasheed replied that this would not be determined until the verification methodology had been completed and applied to the sample.

Claudio Di Gangi asked whether inaccurate records would be followed up. Stacy Burnette responded that the Compliance Team is scaling up with another three appointments planned but that she could not answer that question until the sample had been completed. She also reminded the meeting of the Whois Inaccuracy Reporting Mechanism which is available at InterNic.net.

Piloting the CAC's UDRP Services

Zbynek Loebel, UDRP Manager for the Czech Arbitration Court gave a summary of its new UDRP service. 37 panelists have been chosen from a pool of more than 200 applicants. He explained that the Czech Arbitration Court (CAC) is preparing for the launch of its Uniform Dispute Resolution Policy service in January 2009 by piloting two electronic filing options which are designed to streamline the process and to save complainants and respondents both time and money.

The foundation of this service will be an electronic platform that will be tested during November and December 2008 using trial data submitted by 20 attorneys based across five continents.

Following the test, a formal Pilot Programme, open to all interested parties, will run from January – March 2009. This will feature:

- The electronic filing of documents supported by hard-copy signature (partial electronic filing)
- Full electronic UDRP, or e-Filing, with users authenticating their documents with a unique Chess Card

An additional innovative feature of the CAC's UDRP service will be the option for Class Complaints with the filing of a single complaint on behalf of multiple complainants.

Zbynek Loebel explained that the CAC's proposed improvements to the UDRP were built upon the good work of other providers who have championed the UDRP, including WIPO, and he thanked ICANN for supporting the CAC. He added that he expects other UDRP providers to move to eFiling if the CAC's platform is successful.

Finally he invited all members of the IPC to view the presentation attached to these minutes that he was unable to give due to a technical issue with the projector supplied by ICANN.

ENDS

18 November 2008

Nick Wood
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